IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

| DARRYLE SHIELDS, #269 260, |) | |
|----------------------------|----------------------------|------|
| Plaintiff, |)) | |
| V. |) CASE NO. 2:21-CV-369-WHA | -KFP |
| ADOC COMMISSIONER, et al., |) [WO] | |
| Defendants |) | |

RECOMMENDATION OF THE MAGISTRATE JUDGE

Pro se Plaintiff Darryle Shields filed this 42 U.S.C. § 1983 action on May 24, 2021. On July 16, 2021, the Court directed Plaintiff to forward to the Clerk of Court an initial partial filing fee in the amount of \$17.47. Doc. 5. The Court cautioned Plaintiff his failure to comply with the July 16 Order would result in a Recommendation his Complaint be dismissed. *Id.* at 3. To date, Plaintiff has not submitted the initial partial filing fee in compliance with the Court's July 16 Order.

A federal district court has the inherent power to dismiss a case *sua sponte* for failure to prosecute or obey a court order. *See, e.g., Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–30 (1962); FED. R. CIV. P. 41(b). The Eleventh Circuit has made clear that "dismissal is warranted only upon a 'clear record of delay or willful contempt and a finding that lesser sanctions would not suffice." *Mingo v. Sugar Cane Growers Co-Op of Fla.*, 864 F.2d 101, 102 (11th Cir. 1989) (per curiam) (emphasis omitted) (quoting *Goforth v. Owens*, 766 F.2d 1533, 1535 (11th Cir. 1985)). Here, the Court finds Plaintiff has willfully failed to comply with the directives of the Court's July 16 Order. And, considering Plaintiff's disregard for

orders of this Court, the undersigned further finds sanctions lesser than dismissal would

not suffice in this case.

Accordingly, the undersigned Magistrate Judge RECOMMENDS this case be

DISMISSED without prejudice.

It is ORDERED that objections to the Recommendation of the Magistrate Judge

must be filed by October 13, 2021. Any objections filed must specifically identify the

factual findings and legal conclusions in the Magistrate Judge's Recommendation to which

a party objects. Frivolous, conclusive, or general objections will not be considered by the

District Court. This Recommendation is not a final order and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the

Magistrate Judge's report will bar a party from a de novo determination by the District

Court of factual findings and legal issues covered in the report and "waive the right to

challenge on appeal the district court's order based on unobjected-to factual and legal

conclusions" except upon grounds of plain error if necessary in the interests of justice.

11TH Cir. R. 3-1; see Resolution Trust Co. v. Hallmark Builders, Inc., 996 F.2d 1144, 1149

(11th Cir. 1993); Henley v. Johnson, 885 F.2d 790, 794 (11th Cir. 1989).

DONE this 29th day of September, 2021.

/s/ Kelly Fitzgerald Pate

KELLY FITZGERALD PATE

UNITED STATES MAGISTRATE JUDGE